



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 3389-99

29 October 1999

[REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 26 October 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 12 December 1968 at the age of 20. Your record reflects that on 7 October 1969 you received nonjudicial punishment (NJP) for unauthorized possession of a liberty card. The punishment imposed was restriction and extra duty for 14 days and a forfeitures of pay.

On 5 and 10 January 1970 you received NJP for absence from your appointed place of duty and breaking restriction. On 16 July 1970 you were convicted by special court-martial (SPCM) of disrespect, failure to obey a lawful order, and communicating a threat. You were sentenced to reduction to paygrade E-1, forfeitures totalling \$100, and confinement at hard labor for two months. The confinement at hard labor was suspended for six months. Subsequently, you were notified of pending administrative separation action by reason of convenience of the government.

The discharge authority directed your commanding officer to issue you a general discharge and on 12 August 1970 you were so discharged.

Character of service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your conduct average was 3.3. An average of 4.0 in conduct was required at the time of your separation for a fully honorable characterization of service.

The Board, in its review of your entire record and application, carefully considered all mitigating factors, such as your youth and immaturity, and your contention that you would like your discharge upgraded. The Board further considered your contention that you now realize that any threat should be taken seriously, even though the threat you made was a result of your excessive use of alcohol. However, the Board found the evidence and materials submitted were not sufficient to warrant recharacterization of your discharge given the serious nature of your misconduct and since your conduct average was insufficiently high to warrant an honorable discharge. Given the circumstances in your case the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director